

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1819 OF 2003
(For condonation of delay)
IN
CRIMINAL APPEAL NO.1331 OF 2002

The State of Maharashtra

Applicant

vs.

1. Shripad Ramchandra Kulkarni & 28 ors. Respondents

Ms.V.R.Bhonsale, Addl. Public Prosecutor for the State.

Ms.Rupali Bhosale i/b. Ms.Manisha Patil for respondents
2 to 8, 10 to 25 and 27 to 29.

**CORAM : R. M. LODHA &
R. S. MOHITE,JJ.**

DATED : 3rd March 2005

P.C.

Vide judgment dated 31st July 2002 the Additional Sessions Judge, Gadhinglaj acquitted present respondents of the offences punishable under Sections 302 r/w 149, 307 r/w 149, 147, 148, 427 r/w 149, 504 r/w 149 and 506 r/w 149 IPC. Aggrieved thereby the State has preferred criminal appeal. The appeal suffers from delay of 12 days and, accordingly, application for condonation has been taken out by the State. The Court ordered issuance of notice to the respondents. All respondents except respondent no.26 have been served and are represented by advocate Ms.Manisha Patil. As regards respondent no.26 time and again opportunity was given to the APP for supplying his correct address. When the matter came up

before us on 17.02.2005 we passed the following order:

"The learned Additional Public Prosecutor submits that if some time is granted, she would find out the complete address of respondent No.26 where he last resided in village Vinjane, Taluka Chandgad, District Kolhapur.

2. We intend to give time to the learned Additional Public Prosecutor, as in our view, it is not possible to serve respondent No.26 as provided in sections 62 and 64 of the Code of Criminal Procedure and the order of affixation shall have to be made as provided in section 65 of the Code of Criminal Procedure, 1973.

3. S.O. two weeks. "

2. The learned Additional Public Prosecutor submits that address of respondent no.26 could not be found out. Since the Additional Public Prosecutor is not able to tell us even the last known address where the respondent no.26 ordinarily resided, even order of affixation under section 65 of the Code of Criminal Procedure, 1973 cannot possibly be passed. In the circumstances, we are constrained to dismiss the application for condonation of delay in so far as respondent no.26 is concerned.

3. As regards other respondents, we are of the view that delay of 12 days is sufficiently explained. We, accordingly, condone the delay in filing the appeal against the respondents save and except respondent no.26.

4. The application for condonation of delay as against the respondent no.26, however, is dismissed for want of prosecution.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)